

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

This matter is before the Court on the motion of defendant Ramneesh Prabhakar for reconsideration of the order revoking his release following trial.

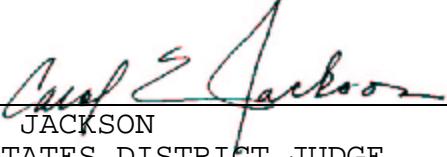
The testimony during the trial, established that the defendant's status as a legal immigrant depended solely on the validity of his marriage to an American citizen. The jury found that the defendant committed the crime of marriage fraud, in violation of 8 U.S.C. § 1325(c), in that he entered into the marriage for the purpose of obtaining status as a permanent resident alien. The jury's verdict thus invalidates the legality of the defendant's presence in the United States. Apart from any administrative proceedings, the defendant may be subject to further criminal prosecution by reason of his illegal status.

Section 3143(a) of Title 18, United States Code, provides that a "judicial officer **shall order** that a person who has been found guilty of an offense and who is awaiting imposition or execution of sentence . . . be detained, unless the judicial officer finds by

clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any person or the community if released under section 3142(b) or (c)." (emphasis supplied). Thus, by statute detention is mandatory unless there is a finding that the defendant does not pose a risk of flight or a danger to the community. In this case, given the circumstances of the defendant's illegal status, the Court concludes that there is no condition of combination of conditions that would reasonably assure the defendant's appearance when required. See 18 U.S.C. §3142(b) and (c).

Accordingly,

IT IS HEREBY ORDERED that the motion of defendant Ramneesh Prabhakar for reconsideration or, in the alternative, to set bail [Doc. #61] is **denied**.



CAROL E. JACKSON

UNITED STATES DISTRICT JUDGE

Dated this 7th day of October, 2008.